



Express Mail No. EV 661145813 US

PATENT APPLICATION
Docket No. 16172.2

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

Wang et al.)	
Serial No.:	10/000,297)
Filed:	December 4, 2001)
For:	POLYMER AND NERVE GUIDE CONDUITS FORMED THEREOF)
Confirmation No.:	8915)
Customer No.:	022913)
Examiner:	Jessica R. Baxter)

RESPONSE TO ELECTION OF SPECIES REQUIREMENT

Mail Stop AMENDMENT
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

In the Office action mailed February 18, 2005 (the "Office Action"), an Election of Species Requirement was asserted because the "application contains claims directed to the following patentably distinct species of the claimed invention" and to "select one from each of the following groups":

- a. Gene delivery system
 - i. Schwann cells
 - ii. DNA and cationic polymer or lipid complex
 - 1) Polyethylenimine

- 2) Poly-L-lysine
- 3) Chitosan
- 4) 1,2-dioleoyl phosphatidylethanolamine
- 5) TRANSFECT
- 6) GENEPORTER

b. Porosity

- i. 8%
- ii. 35%

c. Gene

- i. neurotrophic protein
- ii. neuro-active neural fiber growth eliciting molecule
- iii. NGF
- iv. BDNF
- v. Bcl-2
- vi. CNTF
- vii. Epidermal growth factor
- viii. Fibroblast growth factor

d. Microspheres

- i. Poly(phosphoester)
- ii. Subunit (e.g. claim 50)
- iii. Poly(lactic-co-glycolic acid)
- iv. Poly(lactide-co-glycolide)

In response thereto, Applicant respectfully asserts that the Election of Species Requirement is improper in that the above "species" are incorrectly categorized. As such, any election made herein is not an admission of the correctness of the groupings of the species recited in the Office Action. In any event, an election of species has been made herein only for the purposes of furthering prosecution of the application on the merits.

Accordingly, Applicant makes the following election of species without prejudice:

- a. Gene delivery system
 - ii. DNA and cationic polymer or lipid complex
- 6) GENEPORTER
- b. Porosity
 - ii. 35%
- c. Gene
 - iii. NGF
- d. Microspheres
 - i. Poly(phosphoester)

In view of the above-elected species, claims 22, 24-28, 30-38, 40, 41, 44, 46-49, 52-56, 98-104, 106-117, 120, 122-125, and 128-132 are deemed to be readable thereon.

Applicant's election herein is made without prejudice. As noted by the Examiner, upon the allowance of a generic claim, Applicants will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim, as provided by 37 C.F.R. § 1.141.

An action on the merits of all the claims and a Notice of Allowance thereof are respectfully requested.

DATED this 18th day of April, 2005.

Respectfully submitted,



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